



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/076,472 | 02/15/2002 | Enichiro Oshimo | 00-2134 | 1758 |

7590 08/13/2003

Kaardal & Associates, PC
Attn: Ivar M. Kaardal
3500 South First Ave. Circle - Suite 250
Sioux Falls, SD 57105-5802

EXAMINER

LUM, LEE S

ART UNIT PAPER NUMBER

3611

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,472

Applicant(s)

OSHIMO, ENICHIRO

Examiner

Lee Lum

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10 is/are rejected.
- 7) ☒ Claim(s) 1-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The disclosure is objected to because of the following informalities:
 - a. In the following Claims, "being for" is grammatically incorrect, and does not aid in comprehension:
Claim 1, third and fourth paragraphs,
Claim 7,
Claim 15, third, fourth and ninth paragraphs.
 - b. In Claims 1 and 15, line 2, "themselves" is grammatically incorrect;
"himself/herself" is a possible amendment.
 - c. In Claim 12, last lines, "is drawn when said lever member is actuated by the user" is unclear in light of the preceding language.
 - d. In Claim 14, "rotational speed" lacks antecedent basis.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tidcomb 6158757.

Tidcomb discloses a wheelchair apparatus 100 for permitting a user to propel his/herself through arm movement, comprising

Chair member (inherent) for supporting the user, including
seat and frame portion (both inherent),
at least one drive wheel 52 coupled to the frame portion,
at least one support wheel (unidentified in fig 1, smaller wheel near footrest),
at least one lever assembly (fig 2) coupled to the drive wheel and chair member,
for rotating the drive wheel,

Art Unit: 3611

the lever assembly having lever 102 pivotally coupled to the frame portion,
and cable 150 coupled between the lever and drive wheel, the cable rotating the drive wheel (fig 2), and,

Clutch means 54 coupled between the cable and drive wheel (fig 2), the clutch engaging/disengaging the drive wheel (col 9, last paragraph).

3. ALLOWABLE SUBJECT MATTER

a. **Claims 4-9 and 11-14** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and upon resolution of any objections.

b. **Claims 15 is allowable** upon resolution of any objections.

Prior art does not disclose a wheelchair apparatus for propelling the user through arm movement comprising, *inter alia*, a lever, a clutch bias coupled to the clutch, the bias being tensed/recoiling from being tensed when the lever is used, a gearing assembly with motor and processing assembly.

4. The prior art made of record, and not relied upon, is pertinent to this disclosure, in addition to that listed on the IDS filed 2/15/02: Korosue 6247715, Drake 5941547, Harris et al 5020815, Beumer 5167168, Brubaker et al 4840076, Horn 4811964, Seol 4762332.

Art Unit: 3611

5. Communication with the Examiner and USPTO

Any inquiry concerning this communication should be directed to Ms. Lum at (703) 305-0232, M-F, 9-6. Our fax numbers are (703) 872-9326, 872-9327 for after-final comms, and 308-2571 for comms having given prior notice to the examiner. Any inquiry of a general nature, or relating to the status of this application/proceeding, should be directed to Customer Assistance at (703) 306-5771.

Ms. Lee S. Lum
Examiner
8/5/03

A handwritten signature in black ink, appearing to be 'L. Lum', written in a cursive style.